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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,629	02/20/2004	Timothy M. Johns	02100.0082	4131
22852	7590	03/21/2007	EXAMINER	
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			YEAGLEY, DANIEL S	
			ART UNIT	PAPER NUMBER
			3611	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/21/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/781,629	JOHNS ET AL.
Examiner	Art Unit	
Daniel Yeagley	3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 29 December 2006.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-52 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-33 and 36-52 is/are rejected.

7)  Claim(s) 34 and 35 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

1)  Notice of References Cited (PTO-892) 4)  Interview Summary (PTO-413)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948) Paper No(s)/Mail Date. \_\_\_\_ .  
3)  Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_ . 5)  Notice of Informal Patent Application  
6)  Other: \_\_\_\_ .

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 36 and 52 are objected to because of the terms “a *second* linkage mechanism” and “a *second* handle member” are out of sequence because no first linkage or first handle are recited prior and therefore lack proper antecedent basis. Appropriate corrections are required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 19 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 19, line 6, the term “the second lever member” lacks antecedent basis.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 – 18, 21 – 33, 36 – 52 are rejected under 35 U.S.C. 102(b) as being anticipated by Cadwell ‘058.

Cadwell shows a hitching mechanism with a handle member that moves a coupling member to raise and lower the coupling member (figure 11 –12), and further shows the art of incorporating a lifting system that is attached to the hitch mechanism (figure 9 and 10) having a first end of an intermediate mechanism (second linkage mechanism) attached to a raise/lower member 148 that includes leg portions and a horizontal member and the second end of the intermediate mechanism attached to a control having a handle member 14 that moves the raise/lower member from a lower position to another upper position, wherein the raise/lower member is *capable of* engaging and supporting a structure that is *capable of* coupling with the hitch mechanism (figure 11), such that a portion of the raise/lower member is *capable of* being slid under the structure, and such that the intermediate mechanism includes a handle member that is attached to at least one link member having a pair of linkage bars 18, 20 and include various openings (at pivot points) and shows an attachment mechanism (at pivot points) which are secured by means of bolt and nut as best shown in (figure 14), wherein the lifting system includes a spring biasing member (figure 15) and is such that the hitch mechanism is capable of coupling and decoupling a structure of a dolly to a vehicle by a method of positioning the lifting system to engage and disengage the tongue by manipulating the handle of the lifting system to raise and lower the member and *thereby* the tongue to an upper and lower position so that the tongue is *capable of* aligning with the hitch mechanism as broadly claimed.

***Allowable Subject Matter***

6. Claims 19, 20 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

7. Claims 34 and 35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

8. Applicant's arguments with respect to claims 1 – 52 have been considered but are moot in view of the new ground(s) of rejection as now claimed. In response to applicant's argument that the single reference must show in as complete detail as is contained in the claim, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is *capable of* performing the intended use, then it meets the claim. It is noted that the hitching mechanism feature as claimed is considered prior art by the submission of the prior art of figure 1 and does not appear to add any thing new to the hitch mechanism and further in view of the claims as now amended the examiner has rejected the claims as stated in view of Cadwell. Cadwell discloses a hitching mechanism for hitching a structure; such as a dolly, to a vehicle as claimed and further discloses the prior art of incorporating a lifting system with the hitching mechanism which is capable of raising and lowering a member by manipulation of a handle member using an intermediate mechanism to control the position of the member with respect to the hitching mechanism as broadly claimed.

*Conclusion*

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Giesmann '913, Ackley '724 and Hunter '517 show a hitching mechanism with a lifting system.
  
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Yeagley whose telephone number is (571)-272-6655. The examiner can normally be reached on Mon. - Fri; first Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley D. Morris can be reached on (571) - 272 - 6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

D.Y.

  
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